

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

IN RE:
ANTHONY WAYNE SILVIOUS AKA
TONY SILVIOUS AND DEBRA SUE
SILVIOUS

Debtors

BCN#: 19-50497-RBC
Chapter: 7

U.S. Bank National Association, as
indenture trustee, for CIM Trust 2016-4,
Mortgage-Backed Notes, Series 2016-4
or present noteholder,

Movant/Secured Creditor,

v.

ANTHONY WAYNE SILVIOUS AKA TONY
SILVIOUS AND DEBRA SUE SILVIOUS

Debtors

and

W STEPHEN SCOTT(80)

Trustee

Respondents

MOTION FOR ORDER GRANTING
RELIEF FROM AUTOMATIC STAY

U.S. Bank National Association, as indenture trustee, for CIM Trust 2016-4, Mortgage-Backed Notes, Series 2016-4, and/or present noteholder, (Movant herein), alleges as follows:

1. The Bankruptcy Court has jurisdiction over this contested matter pursuant to 28 U.S.C. §157 and §1334; 11 U.S.C. §362; and Federal Rule of Bankruptcy Procedure 9014.
2. The above named Debtors filed a Chapter 7 Petition in Bankruptcy with this Court on June 11, 2019.
3. W Stephen Scott(80), has been appointed by this Court as the Chapter 7 Trustee in this instant Bankruptcy proceeding.
4. Movant is the current payee of a promissory note secured by a deed of trust upon a parcel of real property with the address of 80 Quicksburg Mill Lane, Quicksburg, VA 22847 and

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Mary F. Balthasar Lake, Esquire, VSB #34899
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501 Independence Parkway, Suite 203
Chesapeake, Virginia 23320
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more particularly described in the Deed of Trust dated May 23, 2008 and recorded as Deed Book 1414, Page 0049, among the land records of the said city/county, as:

ALL OF THOSE TWO CERTAIN ADJOINING LOTS, TRACTS OR PARCELS OF REAL ESTATE, TOGETHER WITH ALL BUILDINGS AND IMPROVEMENTS THEREON, APPURTENANCES AND ADVANTAGES THEREUNTO BELONGING OR IN ANYWISE APPERTAINING, SITUATE AND LYING AND BEING IN LEE MAGISTERIAL DISTRICT, SHENNANDOAH COUNTY, VIRGINIA, IN THE VILLAGE OF QUICKBURG, AND BEING HEREINAFTER MORE PARTICULARLY DESCRIBED AS FOLLOWS:

- (1) BEGINNING AT A STAKE 6 FEET WEST OF RAILROAD LIMITS AND CORNER TO A. L. CLEM'S LOT; THENCE WITH A LINE N. 68-1/2 W. 1226 POLES AND 17-1/2 LINKS TO A FENCE POST CORNER TO SAID CLEM LOT; THENCE S. 22-1/8 W. 6 POLES TO A STAKE; THENCE S. 68-1/2 E. 17-1/2 POLES TO A STAKE AT WIRE FENCE; THENCE N. 15 E. 6 POLES TO THE BEGINNING, CONTAINING 102.6 POLES, MORE OR LESS.
- (2) ALL THAT LOT OF LAND BEGINNING AT THE SOUTH CORNER TO CHAS. SWARTZ'S LOT; THENCE WITH HIS LINE N. 69 W. 16 POLES AND 10 LINKS TO A STAKE IN SAID SWARTZ LINE; THENCE S. 14 W. 2 POLES AND 11 LINKS TO AN IMAGINARY CORNER; THENCE S. 69 E. 16 POLES AND 10 LINKS TO A STAKE AT A WIRE FENCE, IT BEING 6 FEET FROM RAILROAD LIMITS; THENCE N. 14 E. 2 POLES AND 11 LINKS TO THE BEGINNING, CONTAINING 1/4TH ACRE, MORE OR LESS.

AND

STARTING AT THE RAILROAD TRACK AND RUNNING IN A NORTHWESTERLY DIRECTION FOR 132 FEET TO A STAKE; THENCE IN A NORTHEASTERLY DIRECTION 47 FEET TO A STAKE; THENCE IN A SOUTHEASTERLY DIRECTION 132 FEET TO THE RAILROAD LIMIT; THENCE SOUTHWESTERLY DIRECTION 47 FEET TO THE POINT OF BEGINNING.

5. Movant is informed and believes and, based upon such information and belief, alleges that title to the subject Property is currently vested in the name of the Debtors.

6. Movant is informed and believes that the Debtors intend to surrender the property based upon the Statement of Intentions filed with this court June 11, 2019.

7. The Debtors are in default with regard to payments which have become due under the terms of the aforementioned note and deed of trust. As of June 14, 2019, the Debtors are due for:

- o 6 monthly payments from January 2019 through June 2019 of \$759.01 each which were to be paid directly to Movant;
- o Bankruptcy Fees of \$750.00
- o Bankruptcy Costs of \$181.00

8. As of June 14, 2019, the unpaid principal balance on the said note is \$86,867.58.

9. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

10. Movant has elected to initiate foreclosure proceedings on the Property with respect to the subject Trust Deed, but is prevented by the Automatic Stay from going forward with these proceedings.

11. Movant is informed and believes and, based upon such information and belief, alleges that the debtor has no equity in the property.

12. Continuation of the automatic stay of 11 U.S.C. § 362(a) will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362 due to the aforementioned facts.

WHEREFORE, Movant prays for an order granting relief from Automatic Stay, that the 14 day waiting period imposed by F.R.B.P. 4001(a)(3) be waived in this instant bankruptcy proceeding only, and for such other relief as the court may deem meet and proper.

Dated: June 24, 2019

Shapiro & Brown, LLP
Attorneys for Movant

By: /s/ Mary F. Balthasar Lake
Gregory N. Britto, Esquire
VSB #23476
Malcolm B. Savage, III, Esquire
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Certificate of Service

I certify that I have this 24th day of June, 2019, electronically transmitted and/or mailed by first class mail, postage pre-paid, true copies of the Motion For Relief From Stay to the following:

Douglas W. Harold, Jr.
1114 Fairfax Pike, Suite 10
White Post, VA 22663

W Stephen Scott(80)
PO Box 1312
Charlottesville, VA 22902

Anthony Wayne Silvius
1212 Quicksburg Road
Quicksburg, VA 22847

Debra Sue Silvius
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/s/ Mary F. Balthasar Lake
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NOTICE IS HEREBY GIVEN THAT:

A hearing upon the captioned motion will be held at **10:00 AM, on July 24, 2019**, at the
following location:

United States Bankruptcy Court
116 North Main Street
Harrisonburg, VA 22801

I certify that I have this 24th day of June, 2019, electronically transmitted and/or mailed
by first class mail, postage pre-paid, a true copy of the foregoing Notice to the following:

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